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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,920	10/27/2000	Daryl S Meredith	0275A0168DVB	8371

7590 12/23/2003  
Harness Dickey & Pierce PLC  
P O Box 828  
Bloomfield Hills, MI 48303

EXAMINER

PETERSON, KENNETH E

ART UNIT PAPER NUMBER

3724

DATE MAILED: 12/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/698,920

Applicant(s)

MEREDITH ET AL.

Examiner

Kenneth E Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-44 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-44 and 47-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 39 and 42 are objected to because of the following informalities:

On line 8 of claim 39 and line 9 of claim 42, "rive" should be --drive--.

Appropriate correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 39-44 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf et al.'148 in view of Cotton et al.'022 and Brundage et al.'233 or Emmons '607.

Stumpf shows a compound miter saw with most of the recited limitations including a fixed guard and an outside movable guard (18).

Stumpf lacks an arbor shaft cover. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Stumpf by providing an arbor shaft cover, as taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft. Given Stumpf's structure, one of ordinary skill would obviously place the arbor shaft cover on the fixed guard. Stumpf's movable guard appears to be manually operated, rather than spring operated. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by

Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Stumpf by providing a torsional spring, as taught by Brundage or Emmons, in order to automatically bias the movable guard into the guarding position.

4. Claims 39-44 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al.'042 in view of Cotton et al.'022, Stumpf et al.'148 and Brundage et al.'233 or Emmons '607.

Brault shows a mitre saw with most of the recited limitations including a fixed guard, a movable guard and an arbor shaft cover as best seen in figure 1.

Brault's arbor shaft cover may be pivotable out the way to expose the arbor shaft, but this is not clear. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Brault using the arbor shaft cover taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

Brault is silent on what controls the motion of the movable guard. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Brault by providing a pocketed torsional spring, as taught by Brundage or Emmons, in order to

automatically bias the movable guard into the guarding position.


Brault's miter saw is not a compound miter saw having a sliding drive support. However, Stumpf shows the commonness of compound miter saws (see sliding drive support 298). It would have been obvious to one of ordinary skill in the art to have transformed Brault's miter saw into compound miter saw, as taught by Stumpf, in order to be able to cut wider workpieces.

Brault's movable guard is on the inside of the fixed guard, as opposed to the outside. However, Stumpf shows that it is well known to have the guard on the outside. It would have been obvious to one of ordinary skill in the art to have had Brault's movable guard be on the outside of the fixed guard, as suggested by Stumpf, since this is deemed to be an art recognized equivalent known for the same purpose, as per MPEP 2144.06.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 703-308-2186, who can normally be reached on Monday thru Thursday between 7am and 4pm. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp December 17, 2003

  
KENNETH E. PETERSON  
PRIMARY EXAMINER